



12-17-04

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PTO/SB/21 (04-04)
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**TRANSMITTAL
FORM**

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/035,615
	Filing Date	November 7, 2001
	First Named Inventor	Yutaka Hasegawa, et al.
	Art Unit	2684
	Examiner Name	Tilahun Gesesse
Total Number of Pages in This Submission	Attorney Docket Number	2552-000005

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Petition for Extension of Time Under 37 CFR 1.136(a); copy of Office Action dated July 16, 2004; and Return Postcard
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Remarks

The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name Gregory A. Stobbs	Reg. No. 28,764
Signature			
Date	December 16, 2004		

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Donna J. Quenneville	Express Mail Label No.	EV 570 163 463 US (12/16/2004)
Signature		Date	December 16, 2004

This collection of information is required by 37 CFR 1.54. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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EV 570 163 463 US



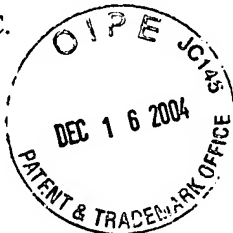
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,615	11/07/2001	Yutaka Hasegawa	2552-000005	3828

27572 7590 07/16/2004

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303



EXAMINER

GESSESSE, TILAHUN

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

2552-000005

CPS

OA Due 10/16/04 Office Action Summary	Application No. 10/035,615	Applicant(s) HASEGAWA ET AL.	
	Examiner Tilahun B Gesesse	Art Unit 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2.5-6</u> . | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
6) <input type="checkbox"/> Other: _____. |
|---|---|



DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2,4,6-7,9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishigaki et al "Ishigaki" (6,271,455) in view of Nakatsuyama (6,253,246).

As to claims 1-2, 11, Ishigaki discloses a music data distribution system (figure 1) for distributing music data to an external device (5) connected to a network (receiving apparatus 5 of figure 1, column 4, line 43-column 5, line 4), comprising: a storage device (8) that stores first music data (column 4, lines 46-50 and figure 1), a receiver that receives a music data distribution request from the external device connected to the network, the music data distribution request comprising at least music data identification information and music data quality information (column 13, lines 35-67 and figure 12), a reading device (CPU 70) that reads the first music data from the storage device in accordance with the music data identification information (column 7, lines 50-66 and figure 5), a transmitter (1) that transmits the music data to the external device (5)

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accordance with the contents of the music data distribution request (column 9, lines 65-column 10, lines 12 and figure 7).

Ishigaki does not expressly teach a quality converter that converts the first music data into second music data having a quality different from the first music data in accordance with the music data quality information. However, Nakatsuyama teaches a quality converter (24) that converts the first music data (stored musical data) into second music data (compressed based on quality table) having a quality different from the first music data in accordance with the music data quality information (column 7, line 58-column 8, line 12, column 2, lines 30-33, and figure 3). Since, Ishigaki, with the similar art of endeavor, indicates the sound quality of the music piece differs depending on the designated compressing system (column 13, lines 42-44), then, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ishigaki and Nakatsuyama in converting music piece into a higher quality, as taught by Nakatsuyama, for improving the sound of the music by compressing music data to minimizing the background echo.

As to claim 4, Ishigaki discloses the music data distribution request further comprises device identification information a format converter that converts the second (compressed) music data into third music data (decompressed) having a file format reproducible at the external device (column 4, lines 7-42).

As to claim 6, Ishigaki teaches the first music data has a file format reproducible at an electronic musical instrument and the second music data has a file format reproducible at a mobile phone (abstract).

As to claims 7,9-10,12, all limitation as explained above and further more, Ishigaki teaches a searching device that searches the first music data from the storage device in accordance with the music data identification information (column 14, lines 1-19 and figure 13).

4. Claims 3, 5, 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishigaki in view of Nakatsuyama as applied to claim 1 above, and further in view of Henrick (6,507,727).

As to claims 3,5, Ishigaki and Nakatsuyama do not expressly teach a charging device that charges a user of the external device with the distribution price determined by the distribution price determiner. However, Henrick teaches a charging device (106) that charges a user of the external device with the distribution price determined by the distribution price determiner (column 3, lines 25-40 and figures 1 and 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ishigaki, Nakatsuyama and Henrick to charge the external user for the requested song or music, as taught by Henrick, in order the music distributing system render an income for the service providing to the users.

As to claim 8, Ishigaki and Nakatsuyama do not expressly teach the information transmitted by the transmitter contains information for displaying the price set by the price setting device. However, the information transmitted by the transmitter contains information for displaying the price set by the price setting device (column 5, lines 1-10 and figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ishigaki, Nakatsuyama and Henrick to

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display the charge the external user, as taught by Henrick, in order to let the user aware of the amount of charged user account on the display of radio receiver.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bottum (6,014,569) discloses a method for transmitting audio data includes receiving identification data from a subscriber and in response to identification data transmitting audio data (abstract).

Schulhof et al (5,572,442) discloses a distribution system for audio program materials includes a portable audio storage and retrieval device (abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TBG

Art unit 2684

July 9, 2004


TILAHUN GESESSE
PATENT EXAMINER

PATENT & TRADEMARK OFFICE
JUL 01 2002

FORM HDP-1449 (Based on Form PTO-1449)

PATENT AND TRADEMARK OFFICE
INFORMATION DISCLOSURE CITATION
(Use several sheets if necessary)

Sheet 1 of 1

PATENT & TRADEMARK OFFICE
DEC 16 2004

ATTORNEY DOCKET NO.	SERIAL NO.
2552-000005	10/035,615
APPLICANT	
Yutaka Hasegawa et al.	
FILING DATE	GROUP
November 7, 2001	2611

U.S. PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.	<i>B</i>	5,636,276	06/03/1997	Brugger	—	

FOREIGN PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes	No
1.	<i>B</i>	0 755 056 A2	01/22/1997	EP	—		
2.	<i>B</i>	2 782 563	02/25/2000	FR	—	X Abstract	

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)

Ref. Desig.	Examiner's Initials	
1.		

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JUL 03 2002
Technology Center 2600

Examiner: *T. Gesesse*

Date Considered: *7/8/04*

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APR 28 2003
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OPPE JC145
DEC 16 2004
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FORM HDP-1449 (Based on Form PTO-1449)

**PATENT AND TRADEMARK OFFICE
INFORMATION DISCLOSURE CITATION**

(Use several sheets if necessary)

Sheet 1 of 1

ATTORNEY DOCKET NO.

2552-000005

SERIAL NO.

10/035,615

APPLICANT

Yutaka Hasegawa et al.

FILING DATE

November 7, 2001

GROUP

2611

U.S. PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.						

FOREIGN PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes	No
1.	<i>TS</i>	01/16931 A1	03/08/2001	WIPO	<i>—</i>	<i>—</i>	

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)

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APR 29 2003

Technology Center 2600

Examiner:

T. Gesessa

Date Considered:

7/8/04

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INFORMATION DISCLOSURE CITATION**
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Sheet 1 of 1

ATTORNEY DOCKET No.

2552-000005

SERIAL No.

Not Yet Assigned

APPLICANT

Yutaka Hasegawa

FILING DATE

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Not Yet Assigned

11/17 U.S. PRO
20/085615
11/07/01

U.S. PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.					—	

FOREIGN PATENT DOCUMENTS

Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes	No
1.	<i>TS</i>	EP 1 073 034 A2	01/31/01	Europe	—		

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)

Ref. Desig.	Examiner's Initials	
1.	<i>TS</i>	Chinese Publication, No. CN 1283060A - 1 Page

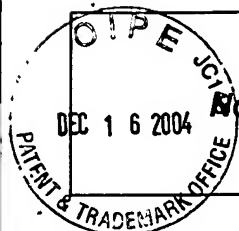
Examiner:

F Gesesse

Date Considered:

7/8/04

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**Notice of References Cited**

Application/Control No.

10/035,615

Applicant(s)/Patent Under

Reexamination

HASEGAWA ET AL.

Examiner

Tilahun B Gesesse

Art Unit

2684

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,714,797 ✓	03-2004	Rautila, Heikki	455/552.1
	B	US-6,253,246 ✓	06-2001	Nakatsuyama, Takashi	709/233
	C	US-5,732,324 ✓	03-1998	Rieger, III, Charles J.	455/3.01
	D	US-5,572,442 ✓	11-1996	Schulhof et al.	709/219
	E	US-6,271,455 ✓	08-2001	Ishigaki et al.	84/605
	F	US-6,507,727 ✓	01-2003	Henrick, Robert F.	455/3.06
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
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	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.